

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

NATIONAL MENTOR HEALTHCARE,
LLC, a Delaware limited liability company,
LILLIAN TORRES and NANCY NIEMANN,

Plaintiffs,

v.

Case No. 6:11-cv-1075-Orl-31GJK

COMMUNITY BASED CARE OF
BREVARD, INC. d/b/a BREVARD
FAMILY PARTNERSHIP,

Defendant.

_____ /

AFFIDAVIT OF DR. PATRICIA NELLIUS

STATE OF FLORIDA

COUNTY OF BREVARD

Dr. Patricia Nellius, being first duly sworn states:

1. My name is Patricia Nellius. Statements in this Affidavit are made on my personal knowledge.

2. I am CEO of Brevard Family Partnership where I have been employed since May 24, 2004. I am the founding CEO who was responsible for the transition of privatized child welfare services to community based care in Brevard County, Florida under a contract with the State of Florida, Department of Children and Families (DCF).

3. It was, and is my charge to work with the local community to establish and responsibly manage a seamless continuum of child welfare services within a fixed budget

allocation for children and families referred to BFP due to risk of child abuse and neglect or substantiated findings of child abuse in Brevard County.

4. Under this charge I worked with the local community stakeholders, community members, and the BFP Board of Directors to design and implement a system of care that represents the priorities established by our local community coalition, Transitions in Partnership.

5. At the time of transition in 2004, had BFP opted to do so, it could have assumed the function of child placing agency (CPA) and all foster homes in Brevard County would have transitioned from DCF directly under our management.

6. However, BFP opted to competitively procure and outsource that function to CPA's under contract with BFP.

7. To mitigate risk, the CPA contracts, including the contract with Mentor (Exhibit A, page 45 of 49 of Attachment 1), specifically included language that specified while they are contracted to manage the homes transitioned from DCF to BFP, BFP retained the rights of all the foster homes and further stated that any homes recruited, licensed, relicensed and managed using BFP funding belong to BFP.

8. This measure was put into place to ensure continuity of care of children could be achieved under all conditions.

9. While we fund the recruitment, management, and licensing of foster homes in Brevard County and pay each foster parent a per day fee for caring for children in their homes, at times throughout the term of the contract a CPA in this instance Mentor may not receive payment on a given day if a home was vacant or alternatively if they had an out of

county child placed in the home by another lead agency/CBC requiring placement in a Brevard foster home that was transitioned to BFP or recruited and licensed by BFP.

10. On Thursday, May 5, 2011, Senate Bill 2146, creating a CBC Equity Funding statute (F.S. 409.16713), passed through both the House and Senate resulting in a reduction of funding in the amount of \$732,157 for the Brevard County Child Welfare system operated through BFP. On May 6, 2011 BFP received notification from DCF that the reduction to our budget would be effective July 1, 2011.

11. On May 9, 2011, using Survey Monkey I engaged the community stakeholders and local providers to explore how the BFP system of care might absorb the reductions with the least impact possible to the children and families we serve.

12. On May 10, I convened a meeting of the BFP executive team and leadership team to conduct an internal analysis and to explore available options,

13. On May 12, 2011, I convened an emergency meeting of the Board of Directors to present the most feasible options identified to date and obtain their input and direction.

14. Following the meeting with the Board of Directors, I convened a conference call on May 13, 2011 with the existing CPA Executives to inform them of the situation regarding SB 2146 and that BFP intended to post an RFP to consolidate the 4 CPA contracts into 1 management entity and to answer any questions they may have.

15. On May 16, 2011, I crafted and mailed a letter (Exhibit B) to inform our 132 foster parents of the impending transition.

16. On May 17, 2011 we posted the RFP (Exhibit C) with the intent to maximize efficiencies where duplication existed and create a more seamless continuum of care for the children served in foster care by expanding the array of services provided by the CPA to comply with the Quality Parenting Initiative standards, and to ensure children would no longer be required to change their psychiatrist and therapist when a placement move to another CPA occurred. (An inherent flaw of the multi CPA model included children having to change psychiatrists and therapists if there was a placement move from one CPA to another).

17. On May 27, 2011, a formal letter (Exhibit D) was sent to CPA's informing them that their contract would not be renewed but rather an RFP was being posted for a single CPA. Mentor did not respond to the letter at that time

18. On June 1, 2011, BFP received 5 responses to the Single CPA RFP: CHS, Crosswinds, Devereux Florida, Mentor and Intervention Services. Mentor did not express any concerns with the propriety of the RFP or the single-CPA model at the time they responded to the RFP.

19. On June 6, 2011, I observed the RFP review committee. The purpose of this meeting was for each of the committee members to individually present their scoring and required Conflict of Interest forms. The committee members had each scored the responses independently prior to meeting on June 6. The scores of each proposal (by alphabetical order) and by element number were read aloud by each team member and were transcribed by Debbie Davidson-Cook. The individual scores were tallied and resulted in the following:

CHS – 128, Crosswinds – 83, Devereux – 155, Florida Mentor – 142, Intervention Services – 150.

20. After review of the proposals, the committee determined that 3 agencies (Devereux, FL Mentor, and Intervention Services) were competitive and close enough in scoring that warranted obtaining additional information prior to making a final determination of award.

21. The committee outlined the specific questions to be addressed by each agency. The agencies were to be informed and submit responses by Wednesday, June 8th.

22. On Thursday June 9th at 4:00 pm, a follow-up conference call was convened by the team members to review the responses to the additional questions at which time it was determined that Devereux had once again scored the highest and would be offered an invitation to negotiate.

23. Following announcement of award, on June 14, BFP received an appeal notice (Exhibit E) from Mr. Fisher, Executive Director, Florida Mentor citing numerous objections to the RFP award.

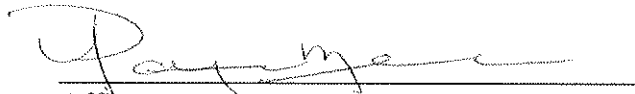
24. In keeping with the BFP Appeals policy as set forth in the RFP, on June 16th an appeal committee met. The appeal committee did not find probable cause to the complaints and denied the appeal; a letter (Exhibit F) was crafted and sent to Mr. Fisher alerting him to the findings of the appeal committee.

25. In keeping with the BFP appeal policy, on June 20th, BFP received a second appeal letter from Florida Mentor (Exhibit G) citing numerous objections to the appeal findings of June 16th.

26. On June 23rd, the next level appeal committee convened and once again the findings concluded there were no grounds for the appeal. A second letter (Exhibit H) was sent to Mr. Fisher.

27. On June 29, 2011, BFP was served with the Complaint filed by the Plaintiff.

Dated this 13th day of July, 2011.



Affiant

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was sworn to and subscribed before me this 13 day of July by Patricia Nellius, as CEO for Brevard Family Partnership, who is ☒ personally known to me or ___ produced identification to wit: _____.




Notary Public
My Commission Expires: